

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.198 of 2016

Arising Out of PS.Case No. -9 Year- 2015 Thana -RAGHOPUR District- SUPAUL

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Md. Hasib Khan Son of Late Isfhaq Khan @ Chiten Khan, resident of Birpur, P.S.-
Birpur, District- Supual

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP

Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 29-08-2017

Heard learned counsel for the petitioners and learned A.P.P.
appearing for of State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 02.11.2015 passed in Raghopur P.S. Case No. 09 of 2015, whereunder the learned Addl. Chief Judicial Magistrate, Birpur (Supaul) accepted the Final Form submitted by the I.O on investigation and refused to proceed on the protest petition filed by the informant/petitioner on 03.02.2015.

3. Learned counsel appearing on behalf of petitioner submits that petitioner filed the Complaint Petition No. 538 © of 2014 in the Court of SDJM, Birpur. The S.D.J.M., Birpur send the complaint petition under Section 156(3) Cr.P.C. for investigation. Thereafter, on the basis of complaint petition of the petitioner Raghopur P.S. Case No. 09 of 2015 was instituted under Sections 323, 379, 465, 467, 468, 420, 471, 120-B and 504/34 of the Indian Penal Code against 16 persons named in the F.I.R. on 23.01.2015. On investigation, the Police submitted Final Form while petitioner had filed protest petition on 03.02.2015. Thereafter, learned A.C.J.M. through the impugned order accepted the Final Form on perused of material and available in the case diary while



on the basis of the protest petition, the informant/petitioner and I.O of the case were examined under Section 200 of the Cr.P.C. As such, the learned S.D.J.M. committed illegality to accept the Final Form on perusal of case diary after examination of informant-petitioner and investigating officer of the case through the impugned order.

4. On perusal of the record, it appears that after investigation the I.O submitted the Final Form in Raghopur P.S. Case No. 09 of 2015 instituted on the basis of compliant petition of petitioner as sent under Section 156(3) Cr.P.C. for investigation, while the informant-petitioner had filed the protest petition with allegation of non-examination of the witnesses as cited in the complaint petition, which was the basis of the F.I.R. Thereafter, learned A.C.J.M. examined the informant/petitioner and also Investigating Officer of the case, who disclosed about recording the statements of the witnesses in investigation. Thereafter, the learned ACJM on going through the case diary and the statement of Investigating Officer accepted the Final Form submitted by the investigating officer and refused to proceed with the protest petition of the informant-petitioner through the impugned order.

5. On perusal of impugned order, I do not find any illegality in the impugned order amounting to abuse of process of Court for interference in extraordinary jurisdiction under Section 482 Cr.P.C. Accordingly, this application is dismissed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	05.09.2017
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